



地址：中国北京建国门外大街1号
国贸写字楼1座3层
Add: Third Floor China World Office 1
No.1 Jian Guo Men Wai Avenue, Beijing ,China

电话/Tel: +8610 65057866 / 67 / 68
传真/Fax: +8610 65057869
网址/Website: www.greatwalllawfirm.com
邮编/P.C.: 100004

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By Email: operations2@adcommission.gov.au

**The Director
Operations 2
Anti-Dumping Commission
Customs House
5 Constitution Avenue
CANBERRA ACT 2601**

**Anti-Dumping Investigation No. 238 of Certain Deep Drawn Stainless Steel Sinks
Exported from China
Komodo Submission on Statement of Essential Facts**

This submission is filed on behalf of Komodo Hong Kong Limited and Guangzhou Komodo Kitchen Technology Co., Ltd. (herein after referred as “Komodo”) to make comments on the Anti-Dumping Commission’s Statement of Essential Facts (SEF) of the dumping and subsidization investigation of deep drawn stainless steel sinks exported to Australia from the People’s Republic of China (China).

Komodo noticed that, in the Statement of Essential Facts that issued on 23 December 2014, the Commission determined that Komodo was actually ‘trader’ rather than exporter and did not allocate separate dumping margin for Komodo. The reasons stated by the commission in the SEF are:

The Commission has reviewed the information contained in Komodo and Xintian’s response to the Exporter Questionnaire and notes that these responses show that, even though Komodo negotiates price and is the named ‘supplier’ to the Australian customer, Xintian is aware of the fact that the goods it is producing and selling via Komodo are destined for export, and Xintian knowingly passed the goods over to a freight company for delivery to Australia. The Commission therefore continues to consider that Xintian is the true ‘exporter’ of the goods.

Komodo thinks that the above statements of the Commission are inconsistent with the real condition of Komodo and Xintian that contained in Komodo and Xintian’s response to the Exporter Questionnaire and some other submissions; according to related policies of Australia, Komodo shall be looked on as exporter or shall at least

be looked on as exporter jointly with Xintian. To help the Commission fully understanding the condition of Komodo and Xintian, Komodo further explain the issue on “exporter status” as follows:

I. Komodo is consistent with the definition of “exporter” in the antidumping system of Australia

1. Komodo has total control over the distribution channel of subject products that bought from Xintian

As showed in the response to Questionnaire of Komodo, Komodo is not just a common trading company; it is a group that includes three related companies doing the following businesses^①:

| Company Name | Business |
|---------------------|---|
| Komodo GZ | Design, Distribution |
| aXCaliba | Production of Fabricated Stainless Steel Sink |
| Komodo HK | Exportation |

Komodo sells both Fabricated Stainless Steel Sinks and Drawn Stainless Steel Sinks. Komodo produces the Fabricated Stainless Steel Sinks in its own plant aXCaliba. As for Drawn Stainless Steel Sinks, Komodo outsources just the production to Xintian. The distribution channel of Drawn Stainless Steel Sinks that bought from Xintian is totally controlled by Komodo.

As stated in the response to Questionnaire of Komodo:

- 1) *Xintian sold the products to Komodo Companies at EXW level^②;*
- 2) *Komodo GZ arranges the inland transportation of subject products from Xintian to the port^③;*
- 3) *Komodo GZ arranges truck to take over the goods at the plant of Xintian^④.*

It shows that: Komodo has purchased the goods from Xintian; Xintian hands over the products to Komodo at its plant and then Komodo GZ carries the goods away; after Komodo buys the products from Xintian, Komodo has right to resell the products to anywhere and to anyone.

According to the data provided by Komodo in its response to questionnaire, besides Australia, Komodo also exported Drawn Stainless Steel Sinks to Canada, New

^① Pleases refer to answer to question A-3 of Komodo’s response to questionnaire
^② Pleases refer to answer to question B-2(a) of Komodo’s response to questionnaire
^③ IB
^④ Pleases refer to answer to question B-2(e) of Komodo’s response to questionnaire

Zealand, Nigeria and Singapore^⑤ during POI. In fact, Komodo sometimes may also sell goods to domestic customers (Komodo happened made no domestic sale during POI). Please refer to the Exhibit 1 for the invoices of domestic sales that made before POI by Komodo GZ.

As for the export sales of Drawn Stainless Steel sinks: the goods purchased from Xintian are recorded as inventory at first in the account of Komodo GZ, and the inventory will be carried over after shipment. As Komodo has its own warehouse in aXCaliba (Please refer to the Exhibit 2 for the photos of aXCaliba's warehouse), sometimes Komodo may also keep actual inventory in the warehouse of aXCaliba.

2. Xintian has no knowledge at all that the goods are destined to where

As stated in the responses to Questionnaire:

Xintian does not export subject products to Australia; Xintian has no information concerning the export of subject products to Australia^⑥; Xintian hands over the products to Komodo at its plant and then Komodo GZ carries the goods away.

Xintian has no contact with the carrier for inland transportation, has no contact with the carrier for sea transportation and has no contact with the Australian customer. Komodo may sell the products to abroad customer or domestic customer. After the products leave the plant of Xintian, Xintian absolutely do not know to which destination will the goods be transported. Xintian may know about Komodo is doing export business, but Xintian can't judge whether all the products sold to Komodo are destined for export.

From the above condition it can be seen that:

- **Komodo purchases subject products from Xintian and has its own inventory;**
- **Komodo is not just an export trader but more like a distributor;**
- **Xintian has no knowledge at all that the goods bought by Komodo are destined to where.**

In addition, as has been stated in former submissions of Komodo, Komodo played a pivotal role in the export transactions of subject products to Australia. Komodo designed the product models; Komodo found and negotiated with the customer; Komodo outsourced the manufacturing work to producers (including Xintian and other accessories producers); Komodo delivered the products to Australian customer. So if there was no Komodo, those subject transactions during POI would not have happened. The role of Komodo is not just a facilitator; Komodo is not just acting on

^⑤ Please refer to Exhibit F-1.1 Third Country Spreadsheet(Komodo HK) of Komodo's response to questionnaire

^⑥ Please refer to answer to section B of Xintian's response to questionnaire.

behalf of another party but totally acting on its own behalf and pushing forward the export transaction of subject products to Australia⁷.

So, it is Komodo and not Xintian, who knowingly placed the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia.

According to the related policy stipulated in Article 6.2 of the Dumping and Subsidy Manual of the Commission, it is a very reasonable and logical thing that looking on Komodo as exporter in the current investigation.

Komodo sincerely request the Commission to treat Komodo as exporter and grant the dumping margin to Komodo in the final determination again.

If the Commission still thinks that Komodo can not be look on as exporter, then Komodo request the Commission at least recognize Komodo with Xintian jointly as manufacturer/exporter for the following reason:

II. Komodo deeply participates in the manufacture of subject products and shall at least be looked on as manufacturer/exporter jointly with Xintian

As stated in the responses to questionnaire of Komodo and some other submissions, Komodo participates in the manufacture of subject products in the following aspect:

- Komodo designed the products models and related moulds;
- Komodo provided accessories to Xintian;
- Komodo sent a group of staff to Xintian's plant to make quality testing and arrange loading;
- Komodo has his own warehouse in aXCaliba and sometimes keep sinks inventory.

So the manufacture of subject products exported to Australia is not solely finished by Xintian. And it is not proper just looking on Xintian as manufacturer/exporter in the current case. Komodo thinks that the Commission shall at least group Komodo and Xintian together as a manufacturer/exporter, and decide a joint dumping margin/tax rate to the two companies. That means that:

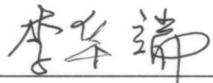
- Xintian can only enjoy the tax rate when exporting subject products to Australia through Komodo;
- Komodo also can only enjoy the tax rate when exporting subject products manufactured with Xintian to Australia.

The advantage of joint dumping margin/tax rate is:

⁷ As stated in the "Komodo Submission on Preliminary Determination", the profit margin of Komodo shows that Komodo is not just acting as an intermediary.

[REDACTED]
[REDACTED] maintain the effectiveness
of antidumping measure. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Yours faithfully,
Great Wall Law Firm



Huaduan Li
Lawyer

Exhibit-1 Domestic Sales Invoices

This information in this exhibit is considered by Komodo to be proprietary information and its release could compromise Komodo's competitive position in the market place.

Exhibit-2 Photos of aXCaliba's Warehouse

This information in this exhibit is considered by Komodo to be proprietary information and its release could compromise Komodo's competitive position in the market place.